

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**CONDITIONAL USE PERMIT REPORT (#FCU-20-14)**  
**RODNEY AND TIA MACFARLANE**  
**NOVEMBER 12, 2020**

**I. GENERAL INFORMATION**

**A. Project Description**

This is a report to the Flathead County Board of Adjustment regarding a request from Rodney and Tia MacFarlane for a conditional use permit to build two (2), two-story four-plex apartment buildings. The property is located at 139 Jewel Basin Court within the Bigfork Zoning District and is zoned "B-3 Community Business."

**B. Application Personnel**

**1. Owner/Applicant**

Rodney and Tia MacFarlane  
1191 Majestic View Lane  
Kalispell, MT 59901

**C. Process Overview**

**1. Land Use Advisory Committee/Council**

The proposed land use is located within the advisory jurisdiction of Bigfork Land Use Advisory Committee (BLUAC). The file will be heard at the November 19, 2020 BLUAC meeting held at the Bethany Lutheran Church in Bigfork at 4:00 P.M. A recommendation from the BLUAC will be forwarded to the Board of Adjustment for their consideration.

**2. Board of Adjustment**

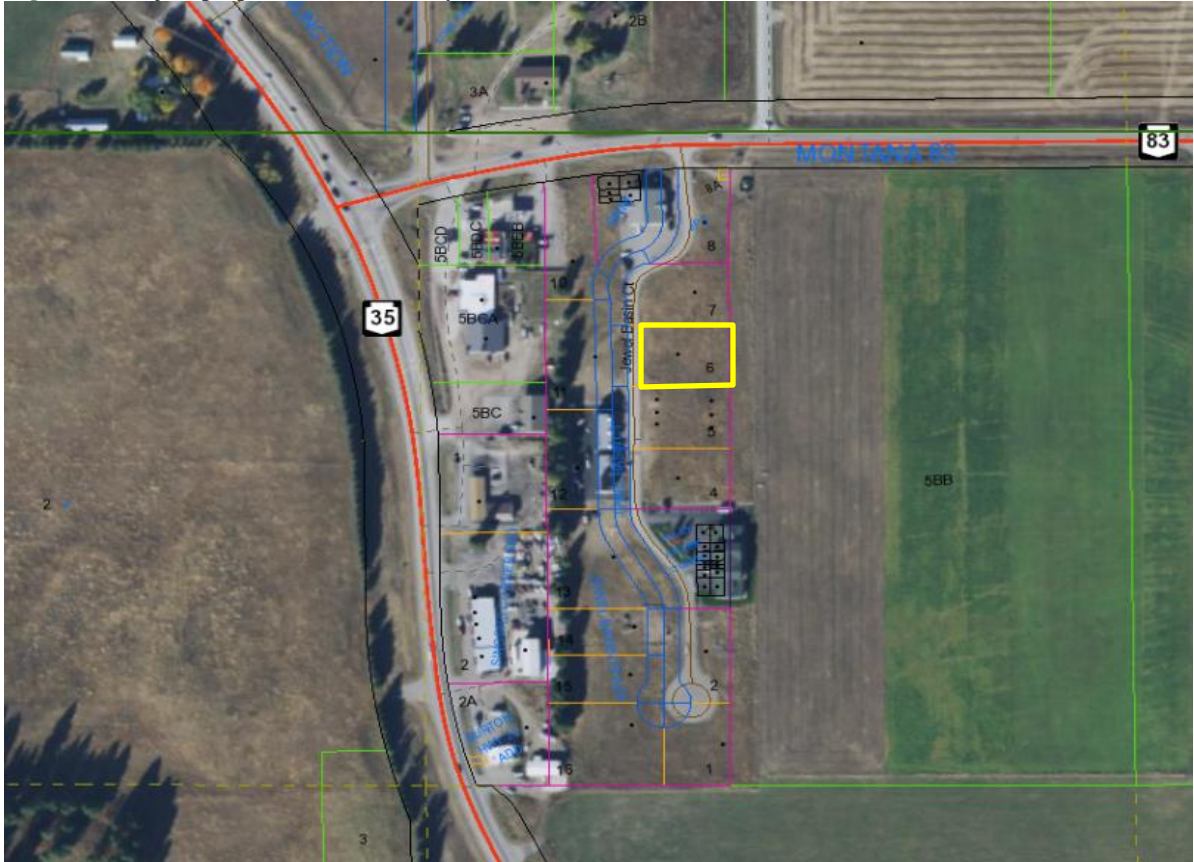
The Flathead County Board of Adjustments will hold a public hearing on the proposal at the December 1, 2020. The meeting will be held at 6:00 P.M. at the Flathead County Fairgrounds, in the Expo building.

**II. PROPERTY CHARACTERISTICS**

**A. Property Location and Size**

The subject property is located at 139 Jewel Basin Court in Bigfork (see Figure 1). The property is 0.64 acres respectively and can be legally described as Lot 6 in Jewel Basin Plaza in Section 24, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

**Figure 1: Subject properties (outlined in yellow)**



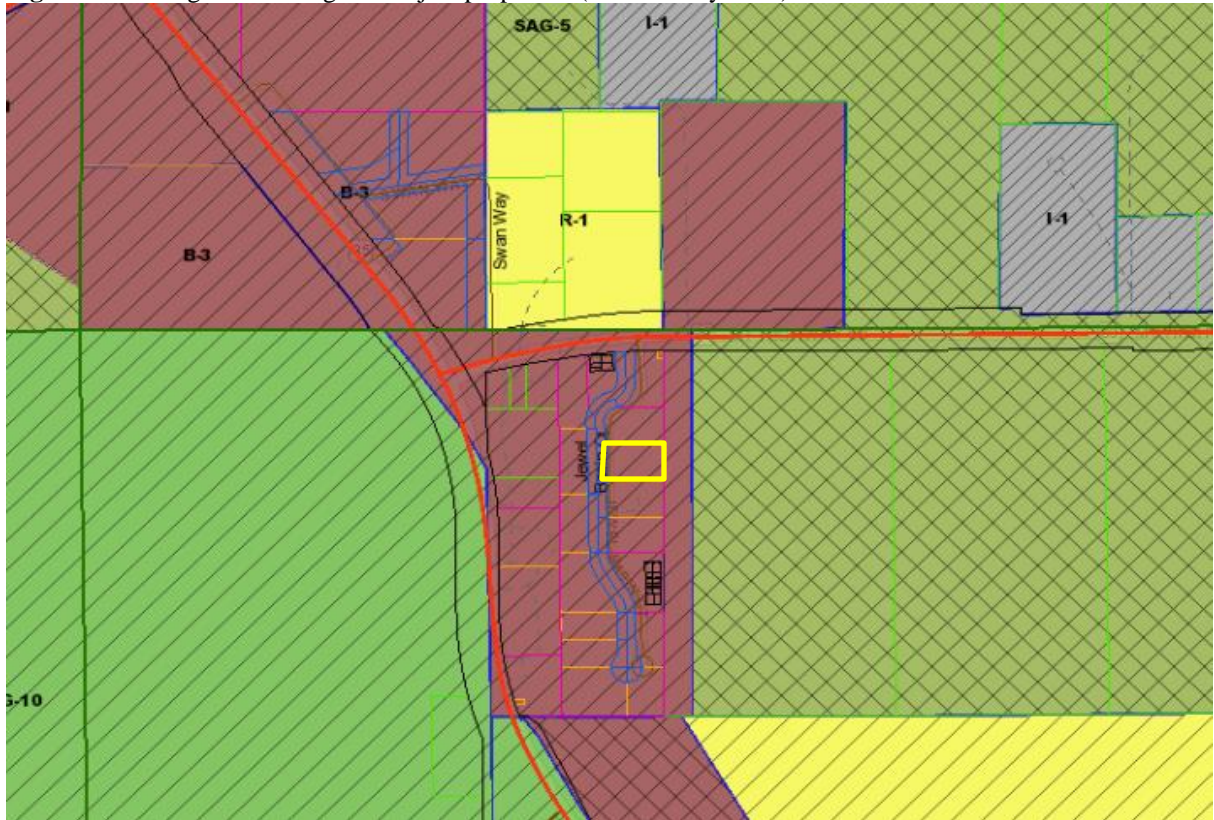
## B. Existing Land Use(s) and Zoning

The subject property is currently undeveloped. The property is located within the Bigfork Zoning District and are zoned ‘B-3 Community Business,’ a designation intended to, *“provide areas for the development of congregated community shopping areas, to serve the range of a number of neighborhoods of a major segment of the Planning Area. This district should be a business center and not a strip development.”*

### C. Adjacent Land Use(s) and Zoning

The properties to the north, south, east and west are similarly zoned B-3 (see Figure 2 below). The properties within the Jewel Basin Plaza subdivision are either undeveloped or contain similar multi-family dwellings.

**Figure 2:** Zoning surrounding the subject properties (outlined in yellow)



#### **D. Summary of Request**

The applicant is proposing to construct two (2), two-story four-plex apartment buildings for a total of 8 units on the subject property. The proposal would meet the definition of dwelling, multi-family “*buildings designed to house three or more families living independently of each other in separate dwelling units but having one yard in common*” [Section 7.05.120 FCZR]. Multi-family dwellings require a conditional use permit under B-3 zoning [Section 3.18.030(5)].

### **III. COMMENTS**

#### **A. Agency Comments**

1. Agency referrals were sent to the following agencies on October 20, 2020:
  - Montana Department of Transportation
  - Bigfork Fire Department
  - Bigfork Water and Sewer District
  - Flathead County Solid Waste
  - Flathead City-County Health Department
  - Flathead County Weeds & Parks Department
  - Montana Department of Natural Resources & Conservation
  - Bonneville Power Administration
  - Bigfork School District

2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
  - Bonneville Power Administration
    - Comment: “At this time, BPA does not object to this request, as the property is 9 miles away from the nearest BPA transmission lines or structures.” Email received October 20, 2020.
  - Flathead County Solid Waste
    - Comment: “No negative impact with solid waste issues at this time. Republic Services is the licensed PSC hauler in this area.” Email received October 22, 2020.
  - Flathead County Environmental Health Department
    - Comment: “This proposal is subject to review under Sanitation in Subdivisions, Title 76.4, Part 1 Sanitation in subdivisions, MCA. The property has an existing Certificate of Subdivision Approval, EQ# 05-2388, which approves one light commercial facility. Two 4-plex apartment buildings are proposed, therefore; this development is subject to re-review. This review addresses water supply, wastewater disposal, storm drainage, and solid waste disposal for the new proposed use.” Email received October 30, 2020.

#### **B. Public Comments**

1. Notification was mailed to property owners within 150 feet of the subject property on November 10, 2020, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the November 15, 2020 edition of the Daily Interlake.
2. Public Comments Received

As of the date of the completion of this staff report, no written public comment has been received regarding the requested conditional use permit. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled at BLUAC on November 19, 2020 and the Board of Adjustment on December 1, 2020. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

### **IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

#### **A. Site Suitability**

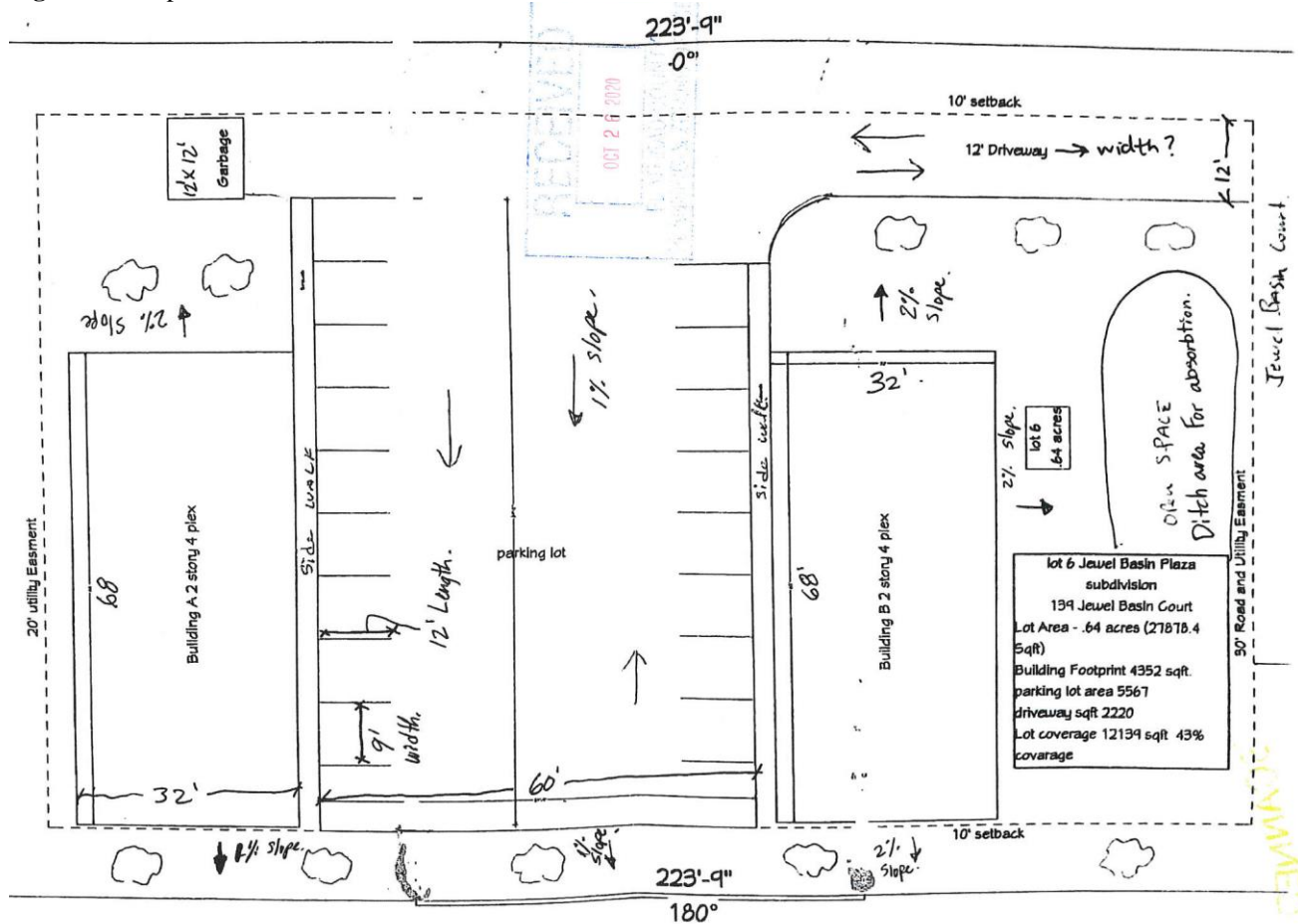
##### **1. Adequate Usable Space**

The subject properties are currently zoned B-3. In the B-3 zone, the minimum lot size and permitted lot coverage are not applicable. The property is approximately 27,878 square feet and will have two (2) buildings. The dwellings will both measure 2,176 square feet for a total of 4,352 square feet. Approximately 15% of the lot will be covered by structures. The site plan shows the parking lot will cover 7,787 square feet with 19 off-street parking spaces. According to the site plan, all structures will comply with setback requirements of the B-3



zone. Based on the submitted site plan and staff's site visit there appears to be adequate space to accommodate the proposed use on the property.

**Figure 3:** Site plan



**Finding #1** – The proposal appears to have adequate usable space because the property is zoned B-3 which does not have maximum lot coverage requirements, the buildings will meet setbacks and adequate off-street parking can be provided.

## 2. Adequate Access

The subject property is located on Jewel Basin Court a paved 20 foot wide, two-lane, private local road within a 60-foot easement. Jewel Basin Court is accessed by Montana Highway 83 that is a Montana Department of Transportation maintained paved, two-lane highway. Based on staff's site visit and the proposed site plan it appears there is adequate sight distances from the proposed access to enter and exit the property safely. Jewel Basin Court is a paved, two lane, private road within a 60-foot easement therefore no approach permit is required from the Flathead County Road and Bridge Department.

**Finding #2** – There appears to be adequate access for the proposed use because the property is accessed by Jewel Basin Court and the subdivision has an approach permit onto Highway 83.

### **3. Absence of Environmental Constraints**

The subject property is relatively flat with no significant elevation changes. There is no mapped floodplain on the subject property. Additionally, there are no wetlands, streams, or creeks located on the parcels and there appears to be no other environmental constraints.

**Finding #3** – The multi-family dwellings do not appear to have environmental constraints because the property is relatively flat, not located in a mapped floodplain and has no wetlands, streams or creeks are located on the subject property.

## **B. Appropriateness of Design**

### **1. Parking Scheme**

According to the submitted application and site plan, the property will have two (2) four-plexes. Section 6.02.030 of the Flathead County Zoning Regulations requires that multi-family dwellings have 2 parking spaces per dwelling unit. Additionally, Section 6.01.020 requires multi-family dwellings provide off-street visitor parking equal to 1 parking space per every 4 living units. The applicant would be required to provide 16 parking spaces for residents and another 2 for guests, for a total of 18 spaces. According to the submitted site plan for the two (2) 4-plex apartment buildings, the applicant is proposing 19 parking spaces.

### **2. Traffic Circulation**

The sites are accessed from Jewel Basin Court, a paved, local road. As illustrated in the site plans the property will have a 36 foot wide traffic aisle, wide enough to accommodate two-way traffic. The proposed ingresses and egresses for the lot complies with the Street and Roadway Standards Section 6.16.020(3) [FCZR]. The proposed parking areas appear large enough to accommodate the number of proposed spaces, while affording adequate and compliant internal traffic circulation.

**Finding #4** – The proposed designated parking schemes and traffic circulation is acceptable because the site plans shows 19 parking spaces and the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].

### **3. Open Space**

The subject properties are currently zoned B-3. In the B-3 zone, the minimum lot size and permitted lot coverage are not applicable. The property is approximately 27,878 square feet and the dwellings will each measure 2,176 square feet for a total of 4,352 square feet. The property will have 7,787 square feet for paved areas. Approximately 16% of the lot will be covered by structures, 28% by the parking lot and 56% of the lot will remain open space.

### **4. Fencing/Screening**

The application states, “The garbage area will be fenced.” Fencing or screening is not required because the property does not abut a residential district. Any fencing or screening constructed on the property would be required to comply with Section 5.04 [FCZR].

### **5. Landscaping**

Landscaping requirements for the subject property is in conjunction with the parking standards outlined for B zoned properties in Section 6.13.010(2). Section 6.13.010(2) states, “Parking is allowed within the front yard setback areas within five (5) feet of the adjoining property boundary provided there is a five (5) foot maintained landscape buffer.” The applicant is not proposing any parking within the front yard setback so this requirement does not apply.

**Finding #5**– The proposed open space, fencing and landscaping on the subject properties appears adequate because 56% of the lot will remain open space, no fencing is required and no landscaping is required.

**6. Signage**

The applicant is not proposing any signage as part of this proposal. Any signage installed would be required to conform to Section 5.11 FCZR.

**7. Lighting**

The application states, “We will have adequate indoor and outdoor lighting. Including by the garbage, entryways, etc.” The proposed lighting appears to comply with the performance standards set forth in [FCZR] Section 5.12.

**Finding #6** – The lighting and signage appear to be appropriate because the proposed lighting will comply with applicable requirements and the applicant is not proposing any signage at this time.

**C. Availability of Public Services and Facilities**

**1. Sewer**

Comment from the Flathead City-County Health Department indicate the lot must be re-reviewed under the Sanitation in Subdivisions Act for the new proposed use. The applicant states that the properties will be served by the Bigfork Water and Sewer District. No comments have been received from Bigfork Water and Sewer regarding this proposal. The applicant will be required to go through re-review through Flathead City-County Health Department for sewer in accordance with the Sanitation in Subdivisions Act.

**2. Water**

Comment from the Flathead City-County Health Department indicate the lot must be re-reviewed under the Sanitation in Subdivisions Act for the new proposed use. The applicant states that the properties will be served by the Bigfork Water and Sewer District. No comments have been received from Bigfork Water and Sewer regarding this proposal. The applicant will be required to go through re-review through Flathead City-County Health Department for sewer in accordance with the Sanitation in Subdivisions Act.

**Finding #7** – The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Bigfork Water and Sewer District and the proposed uses will be required to go through re-review through Flathead City-County Health Department for sewer and water supply.

**3. Storm Water Drainage**

The applicant indicates the stormwater absorption areas on the site map. The application will be conditioned to have a re-review of the storm water drainage in accordance with the Sanitation in Subdivisions Act. All parking areas and access driveways shall have at a minimum, per Section 6.13.010(1) [FCZR], adequate drainage so that injuries not be caused to adjacent properties nor will water drain across a public walk. All storm water runoff is required to be absorbed on-site.

**Finding #8** – The proposed method of storm water management appears adequate because the applicant will manage storm water runoff through on-site absorption and the proposal will be required to go through re-review through the Flathead City-County Health Department for storm water drainage.

#### **4. Fire Protection**

The subject property is served by the Bigfork Volunteer Fire Department and the nearest fire station is located approximately 2.5 miles south of the property. Due to the location of the properties in the Bigfork area and the proximity to a fire station, quick response times in the event of an emergency are possible.

#### **5. Police Protection**

The property would be served by the Flathead County Sheriff's Department. It is anticipated response times in an emergency would not be unreasonably long given the property's proximity to Bigfork.

#### **6. Streets**

The subject property is accessed via Jewel Basin Court. Jewel Basin Court is a paved, two-lane private road within a 60-foot easement, which is accessed via Montana Highway 83. Highway 83 is a paved, two lane MDT maintained highway.

**Finding #9** – The proposed uses appear to have acceptable impacts on public services and facilities because the Bigfork Fire Department and Flathead County Sheriff could provide services to the subject properties with an acceptable response time and the properties are accessed by Jewel Basin Court, a paved two-lane private road and Montana Highway 83, a paved two-lane MDT maintained highway.

### **D. Immediate Neighborhood Impact**

#### **1. Excessive Traffic Generation**

As previously discussed, Jewel Basin Court is a paved, two-lane private road accessed by Montana Highway 83. According to the ITE Trip generation 9<sup>th</sup> Edition two, 4-unit apartment buildings would generate 53 vehicle trips per day based on an average daily rate of 6.65 trips generated per dwelling unit. The most recent traffic counts for Montana Highway 83 slightly east of Jewel Basin Court were taken in 2019 by the Montana Department of Transportation. The average daily trips on Highway 83 at that site were determined to be 3,367. Using these estimates, the addition of 53 vehicle trips would increase traffic on Highway 2 by approximately 1.5%. Montana Department of Transportation did not submit comment on this proposal.

A number of the adjacent lots within the subdivision are being developed with apartment and business complexes. Because each lot is accessed via a two-way road built to Flathead County Road and Bridge Department Standards, it is anticipated that the 53 additional vehicle trips per lot can be accommodated via Jewel Basin Court.

**Finding #10** – Additional vehicle traffic associated with the proposed uses are not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is 1.5% increase from the average daily trips onto Highway 83 and is anticipated to be similar to future traffic conditions in the area given current zoning and established subdivision road and MDT had no comment on the proposal.

#### **2. Noise or Vibration**

While some noise and vibration will naturally occur as a result of construction activities related to the development of the buildings, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise or vibration beyond what is typical for a residential area is anticipated as a result of the proposed multi-family dwellings.



### **3. Dust, Glare or Heat**

While some dust is anticipated during construction activities, the resulting impacts will be limited in duration, similar to the impacts of construction noise and vibration. Excessive dust is not anticipated as a result of the proposed multi-family dwellings, as Jewel Basin Court and Highway 83 are paved roadways and the proposed parking lots will also be paved.

As with any development, increased impervious surface area and windows do have the potential to increase the impacts of glare and heat on the subject property as well as the surrounding area. However, these impacts can be mitigated by retaining open space on the subject property in conformance with the bulk and dimensional requirements of the zoning and ideally, landscaping these areas or maintaining them as grass or other types of pervious surfaces.

### **4. Smoke, Fumes, Gas, or Odors**

The proposed multi-family dwellings are not expected to create any smoke, fumes, gas or odors beyond those typically associated with residential activities. The proposed uses will likely not impact the surrounding neighborhood with regard to these types of emissions.

**Finding #11** – The proposed use is not anticipated to have immediate neighborhood impacts on noise, vibration, dust, glare, heat, smoke, fumes, gas or odors because noise, vibrations, glare, heat, smoke, fumes, gas and odors will be typical of residential activities and dust, noise and vibration will be limited to construction.

### **5. Inappropriate Hours of Operation**

The proposed multi-family dwellings will operate as is typical for a residential area; no hours of operation have been proposed by the applicant or are necessary for residential dwellings.

**Finding #12** – The proposed uses are not anticipated to have inappropriate hours of operations and will operate in a manner consistent with residential use.

## **V. SUMMARY OF FINDINGS**

1. The proposal appears to have adequate usable space because the property is zoned B-3 which does not have maximum lot coverage requirements, the buildings will meet setbacks and adequate off-street parking can be provided.
2. There appears to be adequate access for the proposed use because the property is accessed by Jewel Basin Court and the subdivision has an approach permit onto Highway 83.
3. The multi-family dwellings do not appear to have environmental constraints because the property is relatively flat, not located in a mapped floodplain and has no wetlands, streams or creeks are located on the subject property.
4. The proposed designated parking schemes and traffic circulation is acceptable because the site plans shows 19 parking spaces and the proposed traffic aisle widths meet standards set forth in Appendix A [FCZR].
5. The proposed open space, fencing, screening, and landscaping on the subject properties appears adequate because the 56% of the lot will remain open space, the trash area will be fenced but no fencing is required and the applicant is proposing to plant shrubs and grass but no landscaping is required.
6. The lighting and signage appear to be appropriately designed because the proposed lighting will comply with applicable requirements and the applicant is not proposing any signage at this time.

7. The proposed use is expected to minimally impact public water and sewer services because water and sewer service is available from the Bigfork Water and Sewer District and the proposed uses will be required to go through re-review through Flathead City-County Health Department for sewer and water supply.
8. The proposed method of storm water management appears adequate because the applicant will manage storm water runoff through on-site absorption and the proposal will be required to go through re-review through the Flathead City-County Health Department for stormwater drainage.
9. The proposed uses appear to have acceptable impacts on public services and facilities because the Bigfork Fire Department and Flathead County Sheriff could provide services to the subject properties with an acceptable response time and the properties are accessed by Jewel Basin Court, a paved two lane private road and Montana Highway 83, a paved, two lane MDT maintained highway.
10. Additional vehicle traffic associated with the proposed uses are not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood because the traffic generated from the proposed use is 1.5% increase from the average daily trips onto Highway 83 and is anticipated to be similar to future traffic conditions in the area given current zoning and established subdivision road and MDT had no comment on the proposal.
11. The proposed use is not anticipated to have immediate neighborhood impacts on noise, vibration, dust, glare, heat, smoke, fumes, gas or odors because noise, vibrations, glare, heat, smoke, fumes, gas and odors will be typical of residential activities and dust, noise and vibration will be limited to construction.
12. The proposed uses are not anticipated to have inappropriate hours of operations and will operate in a manner consistent with residential use.

## **VI. CONCLUSION**

Upon review of this application, the request to allow for two (2) four-plex dwellings on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-20-14 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

## **VII. CONDITIONS**

1. Construction of the multi-family buildings on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The approved use shall conform to the applicable standards of the 'B-3 Community Business' zoning designation [FCZR Section 3.15].
4. The subject property shall have a minimum of 19 parking spaces to accommodate the proposed 2 multi-family dwellings in accordance with the applicable zoning regulations.

5. All required off-street parking and residential driveways associated with the multi-family dwelling shall meet the applicable design guidelines and special conditions set forth in the Flathead County Zoning Regulations [FCZR Section(s) 6.01, 6.11 and 6.14].
6. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations.
7. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
8. The proposed use shall be reviewed by the Flathead City-County Health Department for water supply, wastewater, storm water drainage and solid waste disposal in accordance with the Sanitation in Subdivisions Act (Title 76.4.1). A copy of the respective permits shall be available upon request by Flathead County Planning and Zoning.
9. All applicable requirements shall be met and applicable permits obtained to be in compliance with the Flathead County Air Pollution Control Regulations.
10. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
11. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: LM